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THE KERALA LAND ACQUISITION BILL, 1960

(Report of the Select Committee)

The Select Committee to which the Kerala Land Acquisition Bill, 1960 was referred, have considered the Bill clause by clause and now submit this, their report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated the 3rd August 1960. The Bill was introduced in the Assembly on the 16th September 1960 and the motion for reference of the Bill to a Select Committee was adopted on the same date.

3. The Committee held two sittings. The changes proposed by the Committee and the reasons therefor are set out in the following paragraphs:—

4. *Clause 2, sub-clause* (2).—The Committee consider that all persons who are entitled to claim an interest in land should also be brought within the scope of "person interested". The sub-clause has been suitably modified for this purpose.

5. *Clause 3*.—The Committee think that the Government and the Collector should be the authorities competent to publish the preliminary notification. Sub-clause (1) has accordingly been recast.

6. *Clause 5*.—The Committee feel that the authorities to take decision on objections should be—

(i) the Government in cases where the preliminary notification was published by the Government; and

(ii) the Board of Revenue in cases where the preliminary notification was published by the Collector. Sub-clause (2) has been recast for this purpose.

7. *Clause 6*.—The Committee consider that the declaration should be published by the Government where the preliminary notification was published by them, and the Board of Revenue where the preliminary notification was published by the Collector. Sub-clause (1) has been recast for this purpose.

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8. *New Clause.*—The Committee are of the view that no award shall be passed by the Collector unless the valuation statement is approved by a superior authority and that the superior authority should be—

(i) The District Collector when the award is to be passed by a Collector other than the District Collector; and

(ii) the Board of Revenue when the award is to be passed by the District Collector.

Clause 17 is intended for this purpose.

9. *Clause 19 (Original clause 18).*—The Committee think that this clause should apply only in case of urgency and that the District Collector should also be empowered to direct the taking possession of land. The Committee also think that the minimum period of notice for taking possession of land should be 3 days instead of 48 hours specified in the proviso to sub-clause (1).

The clause has been suitably modified for the above purposes.

10. *Part VIII.*—The Committee consider that the application of this Part shall not be restricted to irrigational and electrical projects and that it should apply to all projects specified by the Government by notification in the Gazette. Necessary modifications for this purpose have been made in this Part.

11. *Clause 58 (Original clause 57).*—The Committee think that sub-clause (4) of this clause should be amended so as to provide that the civil court invested with the powers of a land acquisition court should not be lower in rank to that of a Subordinate Judge's Court. The sub-clause has been suitably amended.

12. The other changes made by the Committee are either verbal or consequential.

K. CHANDRASEKHARAN,
Chairman of the Select Committee.

THE KERALA LAND ACQUISITION BILL, 1960.

(*As amended by the Select Committee*)

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THE KERALA LAND ACQUISITION BILL, 1960

(AS AMENDED BY THE SELECT COMMITTEE)

[Words underlined or side-lined indicate the amendments suggested by the Committee; omissions are indicated by asterisks]

A

BILL

*to unify and amend the law for acquisition of land for public purposes * * * * in the State of Kerala.*

Preamble.—WHEREAS it is expedient to unify and amend the law for the acquisition of land needed for public purposes * * * * * and for determining the amount of compensation to be given on account of such acquisition in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:

Part I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Land Acquisition Act, 1961.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(2) 'person interested' includes all persons claiming or entitled to claim an interest in compensation payable on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

(3) 'Collector' means the Collector of the district and includes any officer appointed by the Government to perform the functions of a Collector under this Act;

(4) 'company' means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a foreign company within the meaning of section 591 of that Act, a society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 or under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 (Act XII of 1955) and a registered society within the meaning of the Co-operative Societies Act for the time being in force;

(5) 'Court' means a land acquisition court established, or any civil court invested with the jurisdiction of a Land Acquisition Court, under section 58;

(6) 'Government' means, in relation to the acquisition of land for the purposes of the Union, the Central Government, and, in relation to the acquisition of land for any other purposes, the State Government;

(7) the following persons shall be deemed 'persons entitled to act' as and to the extent hereinafter provided, that is to say—

(a) trustees for other persons beneficially interested shall be deemed to be the persons entitled to act with reference to any such case and that to the same extent as the persons beneficially interested could have acted, if free from disability; and

(b) the guardians of minors and the * * * * managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(i) no person shall be deemed 'entitled to act' whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(iii) the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908, shall *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case in proceedings under this Act; and

(iv) no person 'entitled to act' shall be competent to receive the compensation money, payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

Part II

ACQUISITION

PRELIMINARY INVESTIGATION

3. *Publication of preliminary notification and powers of officers thereupon.*—(1) Whenever it appears to the Government or to the Collector that land in any locality within the State of Kerala or within the jurisdiction of the Collector, as the case may be, is needed or is likely to be needed for any public purpose, a notification to that effect shall be published in the Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon, it shall be lawful for any officer, either generally or specially authorised by the Government or the Collector * * * * and for his servants and workmen—

(a) to enter upon and survey and take levels of any land in such locality;

(b) to dig or bore into the sub-soil;

(c) to set out the boundaries of the land proposed to be taken and the intended line of the work, if any, proposed to be made thereon;

(d) to mark such levels, boundaries and line by placing marks and cutting trenches;

(e) where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and

(f) to do all other acts necessary to ascertain whether the land is adapted for such purpose:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

4. *Payment for damages.*—The officer so authorised shall, at the time of such entry, pay or tender payment for any damage which may be done by the act aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector and such decision shall be final.

5. *Hearing of objections.*—(1) Any person interested in any land which has been notified under sub-section (1) of section 3, as being needed or likely to be needed for a public purpose * * * may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing and the Collector shall give the objector an opportunity of being heard either in person or by counsel and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, submit the case—

(i) where the preliminary notification under sub-section (1) of section 3 was published by the Government, to the Government;

(ii) where the preliminary notification under sub-section (1) of section 3 was published by himself, to the Board of Revenue;

for the decision of the Government or the Board of Revenue, as the case may be, together with the record of the proceedings held by him and a report containing his recommendations on the objections.

The decision of the Government or the Board of Revenue, as the case may be, shall be final.

* * * * * * *

DECLARATION OF INTENDED ACQUISITION

6. *Declaration that land is required for public purpose.*—(1) Subject to the provisions of Part VII of this Act, when the Government or the Board of Revenue are or is satisfied after considering the report made by the Collector under sub-section (2) of section 5 that any particular land is needed for a public purpose, a declaration shall be made to that effect under the signature of an officer competent to authenticate the orders of the Government or the Board of Revenue, as the case may be.

(2) The declaration shall be published in the Gazette and shall state the district, taluk and village in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

* * * * * * *

7. *After declaration the Collector to take order for acquisition.*—Whenever any land shall have been so declared by the Government or the Board of Revenue to be needed for a public purpose, the Government or the Board of Revenue, as the case may be, shall direct the Collector to take order for the acquisition of the land.

8. *Lands to be marked out, measured and planned.*—The Collector shall thereupon cause the land (unless it has already been marked out under section 3) to be marked out. He shall also cause it to be measured and if no plan has been made thereof a plan to be made of the same.

9. *Notice to persons interested.*—(1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intend to take possession of the land and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections, if any, to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business.

(5) The notice shall also be published in the Gazette and shall be deemed to be sufficient notice to all persons interested in the land as between the Government and such persons.

10. *Power to require and enforce the making of statements as to names and interests.*—(1) The Collector may require any such person to make or deliver to him at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition) a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land, or any part thereof, as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

ENQUIRY INTO MEASUREMENTS, VALUE AND CLAIMS, AND AWARD BY THE COLLECTOR

11. *Enquiry and award by Collector.*—On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections, if any, which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under sub-section (1) of section 3, and into the respective interest of the persons claiming the compensation and shall make an award under his hand of—

(i) the true area of the land;

(ii) the compensation which in his opinion shall be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. *Award of Collector when to be final.*—(1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. *Adjournment of enquiry.*—The Collector may, for any cause he thinks fit from time to time adjourn the enquiry to a day to be fixed by him.

14. *Power to summon and enforce attendance of witnesses and production of documents*:—For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and so far as may be in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

15. *Matters to be considered and neglected.*—In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 25 and 26:

16. *Award in case of agreement as to the amount of compensation.*—(1) If the Collector and all the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

(2) Such award shall be filed in the Collector's office and shall be conclusive evidence, as between the Government and all persons interested, of the value of the land and the amount of compensation allowed for the same.

17. *Valuation statement to be approved by superior authority.*—No award shall be made by the Collector under section 11 or section 16 unless the valuation statement prepared in such manner as may be prescribed by rules is approved,—

(i) where the Collector making the award is not the District Collector, by the District Collector; and

(ii) where the Collector making the award is the District Collector, by the Board of Revenue.

TAKING POSSESSION.

18. *Power to take possession.*—When the Collector has made an award under section 11 or section 16, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

19. *Special powers in cases where land is needed urgently.*—(1) In cases of urgency, whenever the Government *or the District Collector, for reasons to be recorded in writing,* so direct, the Collector may, on the expiration of fifteen days from the publication of the notice mentioned in sub-section (1) of section 9 take possession of any land needed for a public purpose * * * though no award has been made. Such land shall thereupon vest absolutely in the Government, free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least three days' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(2) In every case under sub-section (1) the Collector shall, at the time of taking possession, offer to the persons interested compensation for the standing crops and trees, if any, on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 26; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(3) In very case under sub-section (1) the Collector may, on a request in writing by all the parties interested and on furnishing sufficient security, after such summary enquiry as he may think fit to institute and after satisfying himself that the parties are lawfully entitled to receive the compensation, pay a sum not exceeding fifty per cent of the probable compensation that may be finally awarded in respect of such acquisition, provided that no payment shall be made where there is a dispute as regards the person entitled to the compensation. The advance compensation paid under this sub-section shall be adjusted towards the final compensation payable under the award.

(4) In the case of any land to which, in the opinion of the Government or the District Collector, the provisions of sub-section (1) are applicable, the Government or the District Collector, as the case may be, may direct that the provisions of section 5 shall not apply, and if they or he so direct or directs, a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under sub-section (1) of section 3.

Part III

REFERENCE TO COURT AND PROCEDURE THEREON

20. *Reference to Court.*—(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under sub-section (2) of section 12 or within six months from the date of the Collector's award, whichever period shall first expire.

21. *Collector's statement to the Court.*—(1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,—

(a) the situation and extent of the land with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under sections 4 and 19 or either of them, and the amount of compensation awarded under section 11; and

(d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

22. *Service of notice.*—The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely:—

(a) the applicant;

(b) all persons interested in the objection, except such, if any, of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

23. *Restriction on scope of proceedings.*—The scope of the inquiry in every such proceedings shall be restricted to a consideration of the interests of the persons affected by the objection.

24. *Proceedings to be in open court.*—Every such proceedings shall take place in open court and all persons entitled to practise in any civil court in the State shall be entitled to appear, plead and act, as the case may be, in such proceeding.

25. *Matters to be considered in determining compensation.*—(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market-value of the land at the date of the publication of the notification under sub-section (1) of section 3;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage, if any, sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage, if any, sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change; and

sixthly, the damage, if any, *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value in consideration of the compulsory nature of the acquisition.

26. *Matters to be neglected in determining compensation.*—But the court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the

sanction of the Collector * * * * *
after the date of the publication of the notification under sub-section (1) of section 3.

27. *Rules as to amount of compensation.*—(1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

28. *Form of awards.*—(1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 25 and also the amounts, if any, respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of clause (2) of section 2 and clause (9) of section 2, respectively, of the Code of Civil Procedure, 1908.

29. *Costs.*—Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

30. *Collector may be directed to pay interest on excess compensation.*—If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of four per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

Part IV

APPORTIONMENT OF COMPENSATION

31. *Particulars of apportionment to be specified.*—Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

32. *Dispute as to apportionment.*—When the amount of compensation has been settled under section 11 or section 16, if any dispute arises as to the apportionment of the same or

any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

Part V

PAYMENT

33. *Payment of compensation or deposit of the same in Court.*—(1) On making an award under section 11 or section 16, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by any one or more of the contingencies mentioned in sub-section (2).

(2) If they do not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 20 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 20:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section the Collector may, with the sanction of the Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange or in such other way as may be equitable having regard to the interest of the parties concerned.

(4) Nothing in sub-section (3) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

34. *Investment of money deposited in respect of lands belonging to persons incompetent to alienate.*—(1) If any money is deposited in Court under sub-section (2) of section 33, and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(a) in the purchase of other lands to be held under like title and conditions of ownership as the land in respect of which such money has been deposited was held; or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court may think fit,

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incidental thereto, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

35. *Investment of money deposited in other cases.*—When any money has been deposited in Court under this Act for any case other than that mentioned in section 34, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money has been deposited or as near thereto as may be.

36. *Payment of interest.*—When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of four per centum per annum from the date of so taking possession until it shall have been so paid or deposited.

Part VI

TEMPORARY OCCUPATION OF LAND

37. *Temporary occupation of land and payment of compensation.*—(1) Subject to the provisions of Part VII of this Act, whenever it appears to the Government that the temporary occupation and use of any land are needed for any public purpose, * * * * the Government may direct the Collector

to procure the occupation and use of the same for such term as it shall think fit, not exceeding five years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed and shall, for the occupation and use thereof for such term as aforesaid, and for the materials, if any, to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested are unable to agree as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court. The amount of compensation payable shall be an amount equal to the rent which the land would normally fetch if leased, together with five per cent of such rent in consideration of the compulsory nature of the occupation of the land.

38. *Power to enter and take possession and compensation on restoration.*—(1) On payment of such compensation or on executing such agreement or on making a reference under section 37, the Collector may enter upon and take possession of the land and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage, if any, done to the land and not provided for by the agreement and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose. * * *

39. *Difference as to condition of land.*—In case the Collector and the persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Part VII

ACQUISITION OF LAND FOR COMPANIES

40. *Company may be authorised to enter and survey.*—(1) The Government may authorise any officer of any company desiring to acquire land for its purposes to exercise the powers conferred by section 3.

(2) In every such case section 3 shall be construed as if for the words "for such purpose" the words "for the purposes

of the company" were substituted; and section 4 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

41. *Industrial concern to be deemed company for certain purposes.*—An industrial concern, ordinarily employing not less than one hundred workmen, owned by an individual or by an association of individuals and not being a company, desiring to acquire land for the erection of dwelling-houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a company for the purposes of this Part, and the reference to company in section 55 shall be interpreted as reference also to a concern.

42. *Previous consent of Government and execution of agreement necessary.*—The provisions of sections 6 to 39, both inclusive, shall not be put in force in order to acquire land for any company unless with the previous consent of the Government, nor unless the company shall have executed the agreement hereinafter mentioned.

43. *Previous enquiry.*—(1) Such consent shall not be given unless the Government be satisfied either on the report of the Collector under sub-section (2) of section 5 or by an enquiry held as hereinafter provided,—

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

(b) that such acquisition is needed for the construction of some work, and that such work is likely to prove useful to the public, or

(c) that such acquisition is needed for a purpose calculated to promote and develop agriculture, industry or co-operation.

(2) Such enquiry shall be held by such officer and at such time and place as the Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure, 1908, in the case of a Civil Court.

44. *Agreement with Government.*—If the Government are satisfied, after considering the report, if any, of the Collector under sub-section (2) of section 5, or on the report of the officer making an enquiry under section 43, that the purpose of the proposed acquisition is to obtain land for the erection of dwelling-houses for workmen employed by the company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work,

and that such work is likely to prove useful to the public, or that the proposed acquisition is for a purpose calculated to promote and develop agriculture, industry or co-operation, the Government shall require the company to enter into an agreement with them providing, to the satisfaction of the Government, for the following matters, namely:—

(1) the payment to the Government of the cost of the acquisition;

(2) the transfer, on such payment, of the land to the company;

(3) the terms on which the land shall be held by the company;

(4) where the acquisition is for the purpose of erecting dwelling-houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which, the dwelling-houses or amenities shall be erected or provided; and

(5) where the acquisition is for the construction of any other work, the time within which, and the conditions on which, the work shall be executed and maintained and the terms on which the public shall be entitled to use the work.

45. *Publication of agreement.*—Every such agreement shall, as soon as may be after its execution, be published in the Gazette and shall thereupon, so far as regards the terms on which the public shall be entitled to use the work, have the same effect as if it had formed part of this Act.

Part VIII

ACQUISITION OF LAND FOR * * * * * * PROJECTS

46. *Provisions applicable in the case of notified projects.*—The provisions of this Part shall apply to such * * * * * * * projects as the Government may, by notification in the Gazette, specify.

47. *Definitions.*—In this Part, unless the context otherwise requires,—

(i) 'project area' means the area included in a project to which the provisions of this Part apply and such other area as may be notified by the Government as required for the expansion and development of that project;

(ii) 'project purpose' means any purpose connected with a project to which the provisions of this Part apply.

48. *Acquisition for project purposes.*—Whenever land is proposed to be acquired in a project area for a project purpose the provisions of this Act shall apply subject to the following modifications:—

(1) for section 11 of the Act, the following section shall be substituted, namely:—

"11. *Enquiry and award by Collector.*—On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections, if any, which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, into the market-value of the land on the date of the sanction of the project concerned and the value of any improvements to the land effected after that date and before the date of the publication of the notification under sub-section (1) of section 3, into the value of the land at the date of the publication of the notification under sub-section (1) of section 3, and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

(i) the true area of the land;

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.".

(2) In sub-section (1) of section 25 of the Act, for clause first, the following clause shall be substituted, namely:—

"first, the market-value of the land on the date of the sanction of the project concerned and the value of any improvements to the land effected after that date and before the date of the publication of the notification under sub-section (1) of section 3 or the market-value of the land on the date of the publication of the said notification, whichever is less;".

Part IX

MISCELLANEOUS

49. *Service of notices.*—(1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him, and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that if the Collector or Judge shall so direct, a notice may be sent by registered post, in a letter addressed to

the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

50. *Penalty for obstructing acquisition of land.*—Whoever wilfully obstructs any person in doing any of the acts authorised by section 3 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 3, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

51. *Magistrate to enforce surrender.*—If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate and such Magistrate shall enforce the surrender of the land to the Collector.

52. *Completion of acquisition not compulsory, but compensation to be awarded when not completed.*—(1) Except in the case provided for in section 38, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraw from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

53. *Acquisition of part of house or building.*—(1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired:

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under sub-section (1) of section 25 *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Government are of opinion that the claim is unreasonable or excessive, they may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case provided for in sub-section (2) no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Government to the person interested, and shall thereafter proceed to make his award under section 11.

54. *Power to continue the proceedings started by another Collector.*—Any Collector who has started proceedings under this Act for the acquisition of land may, on the appointment of any other officer by the Government to perform the functions of a Collector under this Act for the acquisition of the same land make over the proceedings to the officer so appointed and the officer so appointed may continue the proceedings from the stage at which the former left it, as if the proceedings had been started by him.

55. *Acquisition of land at cost of a local authority, or company.*—(1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of a company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company.

(2) In any proceeding held before a Collector or Court in such cases, the local authority or company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or company shall be entitled to demand a reference under section 20.

56. *Exemption from stamp-duty and fees.*—No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

57. *Notice in case of suits for anything done in pursuance of Act.*—No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender or sufficient amends.

58. *Establishment of Land Acquisition Courts.*—(1) The Government may, by notification in the Gazette, establish Land Acquisition Courts at any place or places in the State of Kerala.

(2) When a Land Acquisition Court has been established under sub-section (1) a Judicial Officer not below the rank of a subordinate Judge shall be appointed as judge of the court by notification in the Gazette.

(3) The local limits of the Jurisdiction of the Land Acquisition Courts and the pecuniary limits of the jurisdiction of such Courts shall be such as the Government may, by notification in the Gazette, fix.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the Government may, by notification in the Gazette, invest any Civil Court not lower in rank to that of a Subordinate Judges' Court with the jurisdiction of a Land Acquisition Court, subject to such territorial and pecuniary limits of jurisdiction as may be specified in the notification.

59. *Code of Civil Procedure to apply to proceedings before Court.*—Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings before the Court under this Act.

60. *Appeals in proceedings before Court.*—Appeals shall lie from the award or from any part of the award of the Court as if the award or part of the award is a decree passed by a Civil Court under the provisions of the Code of Civil Procedure, 1908, and subject to such rules as may be prescribed.

61. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

(2) All rules made under this section shall be laid before the Legislative Assembly for not less than fourteen days, as soon as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as the Legislative Assembly may make during the session in which they are so laid, or in the session immediately following.

62. *Repeal.*—The Land Acquisition Act, (Travancore Act XI of 1089) and the Land Acquisition Act, (Cochin Act II of 1070) are hereby repealed and the Land Acquisition Act, 1894 (Central Act 1 of 1894), shall cease to apply to the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956).

Legislature Secretariat,
Trivandrum,
25th October 1961.

D. TIRUMALAI,
Secretary,
Legislative Assembly.